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12/27/05



Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K St., NW, Rm. 711
Washington, DC 20423

RE: Norfolk Southern Railway Company Abandonment
Gaston County, North Carolina
Docket#: AB_290_240_X

ENTERED
Office of Proceedings

Part of
Public Record

Dear Mr. Williams:

In reference to the above named docket, this comment should be treated as a petition for the acceptance of full and complete abandonment as originally requested by Norfolk Southern, dated 8/20/2003. Additionally, Commenter requests the denial of any issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use(CITU/NITU) by the City of Gastonia, Gaston County Commission, the Town of Dallas and NC DOT. This petition is filed on behalf of property owner's Douglas Johnson and Laura Stroupe representing their specific property interest's along the proposed abandonment's right-of-way and will be referred to as "Commenter".

A. Public Use Condition

Commenter requests the STB to find that the subject property is unsuitable for other public use, specifically trail use, as outlined and justified in the Norfolk Southern filing dated 8/20/2003, and as response to the STB requesting denial to the City of Gastonia (filing, dated 9/29/2003) requesting issuance of a Public Use Condition as well as a CITU/NITU.

B. Interim Trail Use

The railroad right-of-way in this proceeding may or may not be suitable for rail banking. Norfolk Southern Right-of-Way interest appears to be limited as stated in the following facts of the filing.

The chronological facts of this case as detailed by STB filings and correspondence(enclosed) by petitioners in the case:

8/20/03: Norfolk Southern files for Abandonment Exemption with the STB citing the severe deterioration of the lines and trestles causing safety concerns, the cost factor to repair and continue maintenance in the future, the lack of profitability of the line due to a sole shipper being the only customer on the line and the likelihood that any future business to support the line was highly unlikely and the salvage value was positive. Cost avoidance is cited to be ten(10) times current annual revenues provided by the line. Norfolk Southern also states that Capital Expenditure for future bridge/trestle rehabilitation costs would be approximately \$22,000, \$40,000 and \$940,000 in years 2004,2006 and 2008 respectively. Norfolk Southern states it appears it does not have clear, fee title to the entire contiguous Right-of-Way and the line does not contain federally granted right-of-way, therefore Norfolk Southern will not have a contiguous corridor available for public use.

9/29/2003: The City of Gastonia files petition for reconsideration on behalf of the City of Gastonia, Town of Dallas and Gaston County, NC. The City of Gastonia cites support from these entities for the purpose of requesting a Public Use Condition and CITU/NITU. The City of Gastonia cites a Statement of Willingness to Assume Financial Responsibility/Liability on behalf of the above named entities. The City of Gastonia and entities also acknowledge that the line is subject to reactivation for future railway use.

10/20/2003: Environmental Assessment is filed. Assessment states the following:

- 1) Railroad provided service to one shipper – Webb Metals
- 2) Service on the line was discontinued February 2003 due to deteriorating track and trestle conditions and safety concerns
- 3) Norfolk Southern asserts there is no reasonable possibility for future development of new traffic over this line.
- 4) NSRC states that because it does not have fee title for the entire Right-of-Way, in addition to other factors such as location, physical condition of the rail line, and adjacent conditions, leads Norfolk Southern to believe the Right-of-Way would not be suitable for highways, other forms for mass transit, energy related transportation facilities, conservation or recreation corridors, or other public use.

- 5) If approved, Norfolk Southern intends to salvage.
- 6) If approved, Norfolk Southern believes public health and safety are enhanced by 16 private and public at-grade crossing eliminations
- 7) Norfolk Southern indicates due to not owning the Right-of-Way as fee simple, it believes the rail line would not be available for any alternative public use.
- 8) The City of Gastonia, Engineering Dept., requests that all rails, crossing materials, signals and signage be removed.
- 9) North Carolina Department of Cultural Resources, State Historic Preservation Office did not identify any properties or areas of archeological or historical significance.

11/12/2003: Norfolk Southern files response to the 9/29/2003 petition filed by the City of Gastonia, declining the City of Gastonia's request to negotiate under the National Trails System Act, thereby requesting the STB not to enter a trail use negotiation condition in it's petition for exemption in the abandonment. Norfolk Southern cites it is more likely to convey the Right-of-Way to the NC DOT or North Carolina Rail Road Company.

12/5/2003: Norfolk Southern files document with STB. Document states that Norfolk Southern has been advised by the NC DOT that it has no interest in acquiring the subject line. Norfolk Southern requests to the STB that it not commit to exercise that abandonment for at least 90 days so that it may continue discussions with North Carolina Railroad Company. Norfolk Southern continues to decline to agree to the issuance of a NITU.

12/9/2003: STB files Decision.

History:

- 1) Norfolk Southern states financial losses providing service to Webb Metals
- 2) Norfolk Southern took the line out of service in February 2003 due to safety issues regarding track conditions
- 3) Norfolk Southern seeks abandonment citing maintenance costs are greater than revenue the line produces
- 4) Webb Metals has not opposed abandonment

Discussions:

- 1) Exemption will foster sound economic conditions for Norfolk Southern by relieving the expense of owning and operating the line
- 2) Norfolk Southern has filed environmental and historical reports
- 3) The STB's SEA issued an environmental assessment 10/20/2003
- 4) NITU request was filed by the City of Gastonia, Town of Dallas and Gaston County on 9/23/2003
- 5) Norfolk Southern declined to negotiate a NITU on 11/13/2003
- 6) STB grants extension until 12/9/2004.

12/11/2003: Norfolk Southern files Abandonment Notification to Webb Metals.

11/22/2004: Norfolk Southern files extension request to 4/11/2004.

- 1) Norfolk Southern discussing conveyance to North Carolina Railroad Company.
- 2) Norfolk Southern does not want to lose option of abandonment or possible NITU while in discussion with North Carolina Railroad Company
- 3) Norfolk Southern does not believe extension will have any adverse affect on any interested parties

12/1/2004: STB grants extension to 4/11/2005.

3/30/2005: Norfolk Southern files extension request to 12/9/2005.

- 1) Norfolk Southern cites not enough time to conclude negotiations
- 2) Norfolk Southern cites discussion with City of Gastonia as reason for delay
- 3) Norfolk Southern does not believe extension will have any adverse affect on any interested parties

4/7/2005: STB grants extension until 12/9/2005

11/21/2005: Norfolk Southern files extension request to 5/9/2006.

- 1) Norfolk Southern cites trenching and road closure work is causing delay

11/28/2005: STB grants extension until 5/9/2006

Commenter's Position:

- 1) Norfolk Southern requested complete abandonment of the subject line on 8/21/03.
- 2) The City of Gastonia has attempted to finalize negotiations with Norfolk Southern for 27 months to no avail. This is due primarily to a lack of support by Gaston County, the Town of Dallas, and the NC DOT.
- 3) The City of Gastonia is attempting to halt this abandonment in order to construct a "greenway" for the public use regardless of the fact that the Town of Dallas does not support a greenway venture and Gaston County appears to have lost interest according to the Gastonia City attorney(Letter dated 12/9/2005). The STB should be aware that the majority of the subject line is outside of the Gastonia city limits and in fact, the majority resides inside the Town of Dallas.
- 4) The City of Gastonia believes that the subject line is suitable for public use even though Norfolk Southern cites it believes that it is unsuitable for public use and does not have fee simple or federally granted right-of way to the subject corridor. Commenter concurs with this statement and believes given this assessment that reversionary property interest's may be available.

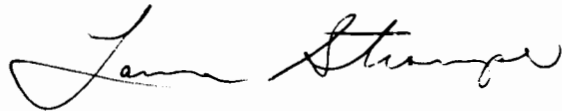
- 5) The Town of Dallas Mayor and Town Manager have expressed it does not support a greenway although it believes that rail banking should be considered for future economic growth. Commenter believes the likelihood of any major corporate growth along the subject corridor is highly unlikely given the amount of area zoned as residential and the economic climate for the foreseeable future.
- 6) In a letter dated September 10, 2004 and March 23, 2005, Mr. Jan Winters (Gaston County Manager) to Mr. Scott Saylor, President of the North Carolina Railroad Company stated that the Gaston County Board of Commissioners were interested in North Carolina Railroad Company acquiring the subject line. He further stated that the Gaston County Board understood that North Carolina Railroad Company needs assurance that Gaston County will assume liability and enter a lease arrangement with North Carolina Railroad. Commenter does not believe the North Carolina Railroad Company has the assurance it believed was cited by Mr. Winters, Gaston County Manager relating to assumed liability for the subject line.
- 7) In a letter dated 12/9/2005 from Ms. Pam Peacock, Public Information Officer for Gaston County, she cites feedback from the City of Gastonia Attorney Ash Smith to questions raised before the Gaston County Commissioner's work session of 12/5/2005. She cites Attorney Smith as saying the City of Gastonia agreed to continue discussions with Norfolk Southern even in the absence of interest on the part of Gaston County and the Town of Dallas. Commenter believes that Gaston County is not willing to assume financial and legal liability for the subject line. The issue of conversion to a greenway has been publicly opposed at several Gaston County Commission work sessions by several property owners and will continue to be opposed in the future.
- 8) NC DOT has no interest in acquiring the subject line.
- 9) NC DOT has an interest in the outcome of the abandonment related to the redesign of the Interstate I-85/321 exchange. As the exchange has become a safety concern due to the large volume of traffic traversing the on and off-ramps, Steve Rackley, North Carolina State Division of Highways project manager that oversees Gaston County stated to the Charlotte Observer News publication posted 12/20/2005, regarding the "band-aid" solution to temporarily easing traffic conditions, "It's really a Band-Aid," Rackley said of the third left-turn lane. "We definitely wouldn't have one here if we could do away with the railroad track and have a ramp like we want to."
- 10) Commenter states that due to the current Norfolk Southern Right-of-Way, their ability to expand their residential property to enhance its market value is impeded severely.
- 11) Commenter believes that the City of Gastonia has no rights to force a greenway upon the residents of the Town of Dallas.
- 12) Commenter believes that a greenway placed in the subject corridor will be a conduit and an opportunity for the criminal element that currently exists in the City of Gastonia to expand into the Town of Dallas.

- 13) Commenter believes should an abandonment proceed and current property owner's land rights were returned, property owners would have the ability to stem the transient traffic and it's related crime that currently runs unabated through their property.
- 14) Commenter believes owning and operating a greenway in the subject corridor is a costly economic expense and, especially in light of the forecasted maintenance cost to alleviate public safety issues, is ill-afforded given the current budgetary constraints of the City of Gastonia, the Town of Dallas and Gaston County.
- 15) Commenter believes that any further requests for extensions will have an adverse affect on Commenter as an interested party, therefore, Commenter requests that this petition be granted and that abandonment be committed.

Respectfully submitted,



Douglas Johnson
1402 Old Dallas Highway
Dallas, NC 28034



Laura Stroupe
1323 Old Dallas Highway
Dallas, NC 28034

Attachments

Attachment A

Letter of Intent to File Petition to:

**James R. Paschall
Norfolk Southern Corp.
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241**

**Mr. Scott M. Saylor, President
North Carolina Railroad Company
2809 Highwoods Blvd., Suite 100
Raleigh, NC 27604-1640**

**Honorable Jennifer T. Stultz, Mayor
City of Gastonia
P.O. Box 1748,
Gastonia, NC 28053-1748**

**Mr. Tom Keigher, Chairman
Gaston County BOC
P.O. Box 1578
Gastonia, NC, 28053-1578**

**Honorable Rick Coleman, Mayor
Town of Dallas
210 North Holland St.
Dallas, NC 28034**

**GASTON COUNTY**

OFFICE OF THE COUNTY MANAGER

212 West Main Street
P.O. Box 1578
Gastonia, North Carolina 28053-1578

Phone: (704) 866-3100

Fax: (704) 866-3147

E-Mail: jwinters@co.gaston.nc.us~~MARCH 23, 2005~~~~September 10, 2004~~

Mr. Scott M. Saylor, President
North Carolina Railroad Company
2809 Highwoods Boulevard, Suite 100
Raleigh, NC 27604-1000

Dear Mr. Saylor:

The Gaston County Board of Commissioners heard a presentation during last night's Work Session on the possibility of the North Carolina Railroad Company obtaining the Dallas Rail Line from a point near Bulb Avenue to the area north of the Town of Dallas where the line ends. Our Quality of Natural Resources Commission recommended that the Board communicate to North Carolina Railroad Company (NCRR) the Board's interest in your company continuing in negotiations with Norfolk Southern to obtain the Dallas Line.

Last night's Work Session was the first time our commissioners as a group learned about the options for the Dallas Line. While they had numerous questions, they are interested in the project. The commissioners asked NC Cooperative Extension to arrange a tour of the line and provide them with maps and property owner information. They understand that NCRR needs assurance that Gaston County will assume liability and enter into a lease arrangement with NCRR.

This should serve as a signal to you that the Gaston County Board of Commissioners wants to keep all options open. Please continue in negotiations with Norfolk Southern to obtain the Dallas Line.

Sincerely,

Jan Winters
Gaston County Manager*Mission Statement*

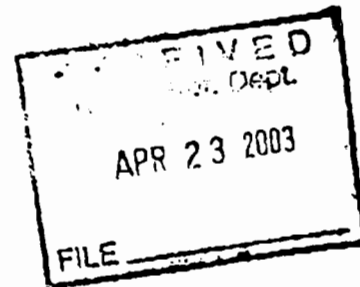
Gaston County seeks to be among the finest counties in North Carolina. It will provide effective, efficient and affordable services leading to a safe, secure and healthy community, an environment for economic growth, and a favorable quality of life.

LGW

City of GASTONIA**ENGINEERING DEPARTMENT**

April 21, 2003

Mr. K. R. Miller
Director Environmental Operations
Norfolk Southern Corporation
Environmental Protection
110 Franklin Road, SE
Roanoke, Virginia 24042-0013



Dear Mr. Miller:

The City is in receipt of your letter to Mayor Jennifer Stultz, dated March 24, 2003, concerning the abandonment of the Norfolk Southern track from Milepost HG-47.0 in Gastonia to Milepost HG-52.0 in Dallas and offers the following comments.

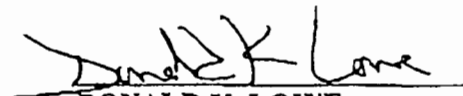
Recommend that the rails, crossing materials, railroad signalization, and signing be removed at all highway/railway intersections along the entire length of the abandoned track, with appropriate repairs to roadways.

Recommend evaluation of the conversion of the rail corridor to a "Rails to Trails" pathway for the entire length of the proposed abandonment.

It is requested that the City of Gastonia be advised of the progress of this abandonment request and be given the opportunity to comment as the abandonment process affects the City.

If you have any questions or need further information concerning this matter, please do not hesitate to contact me at (704) 866-6765.

Yours very truly,


DONALD K. LOWE
City Traffic Engineer

cc: Jennifer T. Stultz, Mayor
Edward C. Munn, City Manager
J. Philip Bombardier, Asst. City Manager - Operations
Felix A. Pruitt, Director of Engineering/City Engineer
Debby P. Key, Project Administrator
Jack L. Kiser, Director of Planning

PO Box 1748 • GASTONIA • NORTH CAROLINA • 28053-1748
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**GASTON COUNTY**

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Gastonia, North Carolina 28053-1578

PUBLIC INFORMATION

Phone (704) 866-3141
Fax (704) 866-3147
e-mail-ppeacock@co.gaston.nc.us

December 9, 2005

Mr. Doug Johnson
1402 Old Dallas Hwy
Dallas, NC 28034

Dear Mr. Johnson:

I spoke with Mr. Ash Smith, Gastonia City Attorney who attended a meeting with Norfolk and Southern April 8, 2005. (The County's representative at this meeting, Craven Hudson, no longer works for the County.)

Mr. Smith told me that there were no decisions made at that meeting and that Norfolk and Southern has obtained another extension until May 9, 2006.

He also said that Norfolk and Southern representatives indicated that they may pursue rail banking instead of abandonment if the parties don't come to an agreement. Essentially that means the rail line property would be held for future rail use instead of reverting back to contiguous property owners.

The City of Gastonia agreed to continue discussions, even in the absence of interest on the part of Gaston County and the City of Dallas. At this time, no additional meetings have been scheduled.

I hope this answers your questions. If I can be of further assistance, please don't hesitate to call me.

Sincerely,

Pam Peacock
PIO

Charlotte.com

Posted on Tue, Dec. 20, 2005

12:30 pm | 'Band-Aid' for I-85 interchange

JEFFERSON GEORGE
jgeorge@charlotteobserver.com

GASTONIA - One of Gaston County's busiest interchanges will get a new turn lane next year, but the long-term cure for congestion remains unclear.

State officials have approved \$850,000 for a third left-turn lane from southbound Interstate 85 to northbound U.S. 321. Traffic at the junction increased more than 50 percent from 1995 to 2004, state transportation data shows.

Work on the turn lane could start as early as March and end in nine months, said Steve Rackley, project manager for the state Division of Highways office that oversees Gaston County. One of the existing left-turn lanes may be closed at times during the project, Rackley said.

While the extra turn lane should improve traffic flow -- vehicles often back up onto I-85 during peak hours -- the interchange ultimately must be revamped, he said.

"It's really a Band-Aid," Rackley said of the third left-turn lane. "We definitely wouldn't have one here if we could do away with the railroad track and have a ramp like we want to."

Read tomorrow's Neighbors of Gaston & Lincoln for more details on this story.

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